Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Interconnection and Resale Obligations	)	CC Docket No. 94-54
Pertaining to Commercial Mobile	)	
Radio Services	)	

To: The Commission

REPLY COMMENTS OF AT&T CORP.

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July 14, 1995

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AT&T Corp. ("AT&T"), by its attorneys, hereby submits its reply comments on the Second Notice of Proposed Rule Making[1/] in the above-captioned proceeding.

INTRODUCTION AND SUMMARY

As the comments on the Second Notice confirm, the Commission has succeeded in largely satisfying the divergent interests of the commenters in this proceeding on the interconnection, roaming, and resale obligations of providers of commercial mobile radio services ("CMRS"). The Commission has appropriately chosen to leave many of the details of the business relationships between CMRS providers to the marketplace, where they will evolve of their own accord. As AT&T demonstrated in its initial comments in this proceeding, the Commission's proposed regulatory regime will give CMRS competitors the flexibility to offer services and enter relationships that are market-driven rather than a product of government fiat. Most commenters agree that flexible regulation of the competitive CMRS marketplace is essential to facilitate the development of a seamless,

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[1/] Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, Second Notice of Proposed Rule Making, CC Docket No. 94-54, FCC 95-149 (rel. April 20, 1995) ("Second Notice").

national wireless infrastructure.

In its recent decision approving the merger between AT&T and McCaw Cellular Communications, Inc. ("McCaw"), the D.C. Circuit expressly affirmed the Commission's findings that there is no bottleneck for wireless services comparable to the local exchange bottleneck and that cellular carriers specifically are rivalrous.[2/] Unlike the local exchange carriers ("LECs"), CMRS providers are subject to competition. Under such competitive conditions, market pressures rather than government standards provide the best assurance that CMRS providers will not engage in anticompetitive practices. The safeguards that are necessary to protect against discrimination by LECs therefore should not apply to CMRS providers.

A few commenters suggest that the Commission should mandate CMRS-to-CMRS interconnection, dictate standardized roaming arrangements, and compel all facilities-based carriers to interconnect with resellers' switches. For example, these parties argue that interconnection standards and mandatory network unbundling are necessary because CMRS providers have market power that remains "largely undiminished" and that personal communications service ("PCS") will be an "island" service without mandatory roaming. Without support, these commenters rely on arguments already rejected by the Commission, unfounded fears of a few start-up PCS competitors, and an unrealistic assessment of the technical and economic feasibility of some forms of CMRS-to-CMRS interconnection. Because they have provided no evidence that Commission intervention is in the public

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[2/] SBC Communications Inc. v. Federal Communications Commission, No. 94-1637, slip op. at 10 (D.C. Cir. June 23, 1995).

interest, the Commission should summarily reject these commenters' contentions.

I. THE COMMENTERS SUPPORT THE COMMISSION'S DECISION NOT TO IMPOSE CMRS-TO-CMRS INTERCONNECTION REQUIREMENTS

The parties have provided resounding support for the Commission's decision not to impose CMRS-to-CMRS interconnection obligations.[3/] As AT&T argued in its initial comments in this proceeding, direct CMRS interconnection requirements are unwarranted because CMRS providers lack market power and interconnection is available through LEC facilities.[4/]

In addition to the fact that mandatory CMRS-to-CMRS interconnection is unnecessary, several parties point out the problems associated with attempting to mandate interconnection. First, the commenters confirm that there are several technical difficulties with direct CMRS interconnection. For example, the PCS GSM interface is not compatible with the cellular IS-41 interface.[5/] Mandating interconnection when it is not clear that it is even technically feasible would not be in the public interest.

Second, there is presently very little demand for direct CMRS interconnection.[6/] As AT&T and AirTouch demonstrated in their comments, traffic between wireless service

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[3/] See, e.g., CTIA Comments at 3-4; Nextel Comments at 3; National Telephone Cooperative Association Comments at 2; SNET Cellular Comments at 5; American Mobile Telecommunications Association, Inc. Comments at 3; GTE Comments at 4; AirTouch Communications, Inc. Comments at 3; Personal Communications Industry Association Comments at 5.

[4/] AT&T Corp. Comments at 6-7; see also CTIA at 3-4; GTE at 7; Vanguard Cellular Systems, Inc. Comments at 4; AirTouch at 4.

[5/] CTIA at 4.

[6/] NYNEX Comments at 5-6.

providers for the 10-year old cellular industry even today represents an infinitesimal amount of total wireless traffic.[7/] Direct CMRS interconnection will develop when there is sufficient traffic to justify such arrangements. Mandatory CMRS interconnection would compel these arrangements before they are efficient.

Finally, mandating direct CMRS interconnection would foster a "free-rider" problem that would reduce the incentives to build out and upgrade emerging networks.[8/] If PCS providers were to obtain direct interconnection with cellular providers at artificially low rates, they would not be as motivated to build out their own networks because they could obtain access to customers without infrastructure investment. Because facilities-based build-out is in the public interest, the Commission should not mandate direct CMRS interconnection.

A. The Few Parties That Favor Mandatory CMRS-to-CMRS Interconnection Provide No Basis For Such Rules

Of the 50 commenters that filed comments in this proceeding, no facilities-based provider has sought standards for direct CMRS-to-CMRS interconnection. The only commenter that attempts to provide any substantive argument why the Commission should mandate CMRS interconnection standards is GSA, which is not a carrier.[9/] However, GSA

[7/] In 1993, total billable mobile minutes of use constituted less than 0.013 percent of total U.S. conversation minutes. AirTouch at 5. Of this amount, AirTouch estimates that mobile-to-mobile calls constitute less than 3% of total mobile minutes of use. Id. See also Declaration of Kurt C. Maass attached to AT&T Comments as Exhibit 2 at ¶ 10.

[8/] CTIA at 7.

[9/] The only other commenters to seek direct interconnection standards are MCI and Time Warner Telecommunications ("TWT"), as well as the resellers' trade associations, the Telecommunications Resellers Association ("TRA") and the National Wireless Resellers Association ("NWRA"). These commenters, which all propose to interconnect switches as

provides no evidence that CMRS-to-CMRS interconnection standards would be in the public interest.

GSA argues that interconnection should be required for all CMRS providers regardless of market power, size, and corporate affiliation because CMRS will become an important part of local exchange access and no longer discretionary.[10/] GSA believes that interconnection requirements are necessary to ensure that wireline and wireless providers compete on an equal basis.

AT&T believes that although at some time in the future wireline and wireless services might compete, they do not now compete.[11/] Even if wireline and wireless competition does emerge, it is unclear how CMRS-to-CMRS interconnection requirements would enhance competition between wireline and wireless services. Although CMRS providers might slowly erode the LEC bottleneck by providing ubiquitous wireless services, forced interconnection between CMRS providers will retard efficient bypass by placing added burdens on CMRS providers and increasing the cost of mobile service. Nor do CMRS providers control a

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resellers to facilities-based carriers, represent the interests of companies who sat on the sidelines during the FCC's PCS auctions and have therefore to date declined the opportunity to become facilities-based carriers in the burgeoning CMRS marketplace. AT&T will address the arguments of these groups in Section IV.

[10/] GSA Comments at 4.

[11/] The commenters' diverse views on defining the relevant market reflect AT&T's concern that it is difficult to predict which services will compete in the future. For example, like AT&T, Frontier Cellular Holding Inc. argues that under any geographic and product market analysis, CMRS market power is absent and therefore mandated CMRS interconnection is not required. Frontier Comments at 3. Other commenters had different views. See, e.g., GTE at 9 (advocating a case-by-case review of relevant product market); CTIA at 10 (relevant product market is termination of traffic); and TRA at 18-19 (relevant product market is all switched wireless voice communications provided over networks fully interconnected with the public switched network).

bottleneck for the provision of exchange access. Rules that are necessary and desirable to open the wireline local exchange bottleneck would not likewise advance CMRS competition.

B. The Parties Uniformly Support Preemption Of State Regulation Of CMRS Interconnection

The commenters echo AT&T's concern in its initial comments that state regulation of CMRS interconnection is fundamentally inconsistent with the development of a seamless national wireless infrastructure. The commenters raise a host of concerns about state regulation, including the jurisdictional inseparability of physical CMRS plant, the political considerations related to state intervention, and the threat to federal policy objectives that state regulation could pose.[12/] It is clear that a federal policy rejecting mandatory CMRS-to-CMRS interconnection would be frustrated if states were free to compel such interconnections. As AT&T demonstrated in its initial comments in this proceeding, it is equally clear that Section 332 of the Act gives the Commission the authority to preempt such regulations.[13/] The Commission should do so to ensure a consistent national policy for commercial wireless services.

For the reasons set forth in the comments of AT&T and numerous other parties to the proceeding, LEC-to-CMRS interconnection will continue to be the primary means of exchanging traffic between wireless systems. Thus, the availability of LEC-to-CMRS interconnection on fair, nondiscriminatory, and economically rational terms is critical to promoting competition in the CMRS marketplace. Specifically, the Commission should

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[12/] See, e.g.. CTIA at 17-18; Nextel Communications, Inc. Comments at 4; Bell Atlantic Mobile Systems, Inc. ("BAMS"). Comments at 7; GTE at 11; SNET Cellular at 11.

[13/] AT&T at 20.

clarify that CMRS providers have the right to mutual compensation for all calls -- i.e., the right to charge a LEC for the service of terminating any call received from the LEC, just as the LEC charges today for terminating any calls received from wireless carriers. The Commission should likewise clarify that a LEC's duty under the Communications Act to negotiate in good faith for CMRS interconnection includes the duty not to discriminate against CMRS providers with respect to intrastate as well as interstate rates.

Two commenters, APC and AirTouch, directly addressed the importance of mutual compensation. As APC notes, the Commission should implement a mutual compensation plan because the impending entry of PCS will cause the balance of traffic volume to change from 90 percent terminating on the public switched network to 60 percent.[14/] AirTouch also advocates mutual compensation because it would reduce CMRS-to-LEC interconnection costs by allowing CMRS providers to collect revenues from landline calls terminated on their systems.[15/]

It is important that the Commission establish a clear set of plenary rules for LEC-to-CMRS interconnection, including mutual compensation, now. Absent action by the Commission, there is evidence that states will act to deny CMRS providers' rights to mutual compensation and will endorse policies that impose higher LEC interconnection rates on CMRS providers than other carriers. For instance, regulations on mutual compensation for CMRS providers proposed by the Connecticut Department of Public Utility Control ("DPUC" or "Department") would effectively preclude mutual compensation for wireless

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[14/] APC at 5.

[15/] AirTouch at 8.

carriers.[16] The DPUC proposes to deny mutual compensation to CMRS providers until they satisfy certain criteria, including that they provide a substitute for local exchange service that is subject to DPUC rate regulation.[17] California and New York have similarly proposed local exchange competition regimes that restrict cellular carriers' ability to obtain mutual compensation and secure LEC interconnection at rates comparable to other local carriers.[18]

In adopting requirements for interconnection between LECs and CMRS providers last year, the Commission held that mutual compensation is a primary element of the reasonable interconnection that LECs must offer all CMRS providers.[19] While the Commission did

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[16] State of Connecticut, Department of Public Utility Control, Investigation into Wireless Mutual Compensation Plans, Draft Interim Decision, Docket No. 95-04-04, at 12 (June 5, 1995). The DPUC misreads the FCC's Second Report and Order as permitting the Department to assert its authority in this area. Id. at 7.

[17] Id.

[18] See New York State Department of Public Service, Proceeding on Motion of the Commission to Examine Issues Related to the Continuing Provision of Universal Service and to Develop a Regulatory Framework for the Transition to Competition in the Local Exchange Market, Order Instituting Proceeding, Case 94-C-0095, at 42-46 (February 10, 1994) (to assert the right to mutual compensation, a firm must be certified to provide local exchange service and cellular carriers cannot qualify); Public Utilities Commission of the State of California, Competition for Local Exchange Service, Orders Instituting Rulemaking and Investigation, R.95-04-043, I.95-04-044, Appendix A at 2, 13 (April 28, 1995) (only wireline local exchange telecommunications companies qualify as competitive local carriers and can engage in reciprocal compensation for terminating calls).

[19] Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, Second Report and Order, 9 FCC Rcd. 1411, 1498 (1994). The Commission stated that, under the principle of mutual compensation, "LECs shall compensate CMRS providers for the reasonable costs incurred by such providers in terminating traffic that originates on LEC facilities. Commercial mobile radio service providers, as well, shall be required to provide such compensation to LECs in connection with mobile-originated traffic terminating on LEC facilities." Id. The Commission also explicitly preempted state and local regulation of the kind of interconnection to which CMRS

not expressly extend the principles of mutual compensation and nondiscrimination to intrastate CMRS interconnection rates, it did include these principles in the LECs' duty under Section 201 to negotiate interconnection terms in good faith with CMRS providers. It is now appropriate for the Commission to emphasize that these principles apply to intrastate as well as interstate wireless telecommunications.[20] The failure to do so could "negate the important federal purpose of ensuring CMRS interconnection to the interstate network"[21] and frustrate the growth and development of the wireless infrastructure.

State rulings that deny CMRS providers the right to compensation for terminating LEC-originated traffic are directly contrary to the regulatory framework established by Congress in Section 332(c). Conditioning mutual compensation on a wireless carrier's satisfaction of state-imposed requirements, many of which are inapplicable to non-wireline service, constitutes a barrier to the effective provision of wireless services and undermines the congressional objective of ensuring a consistent and coherent national regulatory regime that fosters the growth and development of mobile services. Similarly, by conditioning a wireless carrier's ability to obtain cost-based LEC interconnection rates on state regulation

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providers are entitled. Id. at 1497-98.

[20] AT&T's wholly owned subsidiary McCaw previously asked the Commission to specify that the principle of mutual compensation applies to intrastate interconnection arrangements. See Petition for Clarification of McCaw Cellular Communications, Inc., Docket No. 93-252, at 6-7, filed May 19, 1994. McCaw explained that, although the Commission explicitly chose not to preempt state regulation of the rates for intrastate LEC-to-CMRS interconnection, mutual compensation is not fundamentally about rates. Rather, the obligation to provide reasonable interconnection relates to the interconnection arrangements between LECs and CMRS providers and is not segregable between the intrastate and interstate jurisdictions.

[21] Second Report and Order, 9 FCC Rcd. at 1498.

that is proscribed by Section 332, the states and the LECs would interfere directly with congressional and Commission policies. Relegating CMRS service to second-class status with respect to interconnection is also fundamentally inconsistent with the federal policy of helping to "promote investment in the wireless infrastructure by preventing burdensome and unnecessary state regulatory practices that impede our federal mandate for regulatory parity."[22/] The Commission should therefore preempt state regulation and LEC practices that deny mutual compensation and nondiscriminatory co-carrier interconnection rates to CMRS providers.

II. PCS ROAMING WILL OCCUR WITHOUT COMMISSION INTERVENTION

Most parties support the Commission's decision not to adopt specific standards for roaming, but rather to monitor roaming to ensure that it promotes CMRS competition. As AT&T argued in its initial comments, in the absence of market power, specific roaming rules are not warranted and private negotiations are sufficient.[23/] Specific roaming standards might also raise technical concerns given the complexities associated with cross-service roaming.[24/]

Some commenters fear that if the Commission does not mandate specific roaming standards, incumbent CMRS providers will refuse to negotiate fair roaming agreements with new entrants as an exclusionary tactic. For example, without mandatory roaming, Pacific worries that PCS will be an "island" service without the type of ubiquity necessary to

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[22/] Id. at 1421.

[23/] AT&T at 23; see also CTIA at 19, 21; AMTA at 6; NYNEX at 3, 7; GTE at 13; Rural Cellular Coalition Comments at 4.

[24/] Nextel at 5.

promote a nationwide wireless infrastructure.[25] For similar reasons, APC urges the Commission to treat roaming like a common carrier service subject to nondiscrimination requirements.[26]

The PCS providers' concerns are unfounded for several reasons. First, AT&T agrees with CTIA that Section 22.901 of the Commission's rules,[27] compels cellular carriers to offer roaming to PCS subscribers with dual-band telephones.[28] Moreover, AT&T believes that as long as it is limited to "manual" roaming, Section 22.901 should apply to any subscriber who appears on an AT&T system.[29] Any PCS provider who wishes to offer to its subscribers any other type of roaming would be free to negotiate such arrangements with cellular carriers. With mandatory manual roaming, no cellular carrier would be able to exclude a PCS customer from roaming in its territory even if its PCS provider could not

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[25] Pacific at 5.

[26] APC at 8. It is not ironic that APC should urge the Commission to mandate cross-service roaming given the rumor that Sprint will soon divest its cellular holdings. Sprint is one of the major players in the Sprint Telecommunications Venture, which partly owns APC. See Mobile Phone News, "Sprint May Get Out of Cellular Business," No. 25, Vol. 13 (June 19, 1995).

[27] 47 C.F.R. § 22.901.

[28] CTIA believes that Section 22.901 will foster roaming without imposing undue costs on CMRS providers because PCS subscribers can roam either using a dual-band phone or reprogrammed phones that have a valid cellular system identification number obtained through agreement with the cellular systems. CTIA at 20.

[29] "Manual" roaming refers to the least complex type of roaming available. Manual roaming does not incorporate such advanced features as customer verification and fraud prevention.

reach a roaming agreement with the cellular carrier.[30] More sophisticated roaming arrangements would still be an option and, given the development of roaming arrangements among cellular carriers, they are likely to develop.

Second, PCS providers need not be concerned that cellular carriers will refuse to reach fair and nondiscriminatory roaming agreements with PCS providers because many PCS providers are also cellular carriers. For instance, AT&T Wireless PCS, Inc., PCS PRIMECO L.P., and the Sprint Telecommunications Venture all have large cellular holdings: AT&T recently merged with McCaw; PCS PRIMECO is a consortium of Bell Atlantic, NYNEX, AirTouch, and U.S. West; and Sprint currently has cellular holdings and is a major player in the Sprint Telecommunications Venture, which also includes Telecommunications, Inc., Cox Communications, and Comcast Corp. These entities have strong market-based incentives to develop sophisticated cross-service roaming capability to provide to their own customers.

Finally, once such cross-service roaming capability exists, cellular carriers will have every incentive to use that capability to develop relationships with unaffiliated PCS providers. PCS providers without cellular holdings will benefit from the developmental efforts of the cellular companies with PCS affiliates because cellular carriers will have the financial inducement to make cross-service roaming available to as many CMRS subscribers as possible. Cross-service roaming is in every CMRS provider's interest. Cellular carriers

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[30] The Commission should, of course, impose a similar obligation on PCS providers to permit manual roaming by cellular subscribers.

will therefore not deny PCS providers fair roaming arrangements because they would have to forego revenues if they did.

III. NO ADDITIONAL RESALE REQUIREMENTS ARE NECESSARY

As AT&T argued in its initial comments, the Commission need not promulgate specific resale rules for CMRS providers when it could instead rely on the statutory nondiscrimination requirement that all CMRS providers must observe.[31/] However, if the Commission finds it necessary to impose a resale obligation on some CMRS providers, it should impose the same requirement on all CMRS providers except where it would constrain competition. AT&T also agrees that where resale is not possible -- for example, resale is not technically feasible for providers of air-to-ground service -- the Commission should not implement such a requirement.[32/] Where resale is technically feasible and competitive, the Commission should ensure that resale requirements for CMRS providers are consistent.

Most parties agree with AT&T that the Commission should limit the obligation of CMRS providers to resell to their facilities-based competitors. However, the parties disagree on whether there should be a sunset period, and, if so, the length of that period.[33/] AT&T

[31/] AT&T at 27. All CMRS providers are under the duty not to discriminate unreasonably against similarly situated customers. See 47 U.S.C. § 202(a).

[32/] See GTE at 17.

[33/] For instance, AirTouch argues that there should be no requirement to resell to facilities-based competitors at all, but it should be permitted as long as it promotes competition. AirTouch at 16. Southwestern Bell Mobile Systems also believes that there should not be a requirement for facilities-based resale, but that if the Commission does implement such standards, it should be limited to five years. Southwestern Bell at 19. Other parties agree that such a rule should sunset in five years. CTIA at 25; NYNEX at 8; GTE at 22-23; Vanguard at 11; Rural Cellular Coalition at 7. BellSouth would limit the period to three years. BellSouth at 8. BAMS would limit the period to two years. BAMS at 11.

believes that 18 months should provide facilities-based competitors sufficient time to build-out their networks to begin providing their own service. Beyond the 18-month period, facilities-based competitors can offer roaming service to enable their customers to achieve coverage during the remainder of the build-out period.

IV. THE RESELLERS PROVIDE NO NEW SUPPORT FOR THE RESELLERS' SWITCH PROPOSALS

Most commenters urge the Commission to reject the resellers' switch proposals for many of the same reasons that AT&T argued against them.[34/] The resellers provided no substantive support for their proposals to provide switch-based resale. Instead, they rely on factual misstatements about the CMRS marketplace and the feasibility of switch-based resale, as well as recycled legal arguments that the Commission has already rejected.

For example, MCI states that while CMRS has a "bright future" to be competitive, broadband CMRS services are not currently competitive.[35/] Without explanation, MCI states that it supports the need for regulatory oversight of the interconnection and resale practices of "facilities-based" carriers, who MCI maintains have market power that remains "largely undiminished."[36/] MCI provides no evidence to support this claim. Nor does it explain how the Commission should oversee CMRS interconnection.

[34/] See, e.g., CTIA at 27-28; Vanguard at 14; PCS PRIMECO Comments at 11. For example, unbundling is costly and administratively complex. CTIA at 32-33; GTE at 24. There is also a "free-rider" issue: it would be unfair to allow profit from the innovations of CMRS providers without investment. CTIA at 38. GTE also asks the Commission explicitly to preempt the states from imposing the reseller switch proposal. GTE at 25.

[35/] MCI Comments at 2.

[36/] Id.

Aside from the fact that MCI's comments are directly contrary to the D.C. Circuit's recent determination and the Commission's own series of findings that the CMRS marketplace is competitive,[37] MCI's motives are clear. MCI seeks Commission regulation of facilities-based CMRS providers because it has been too timorous to invest in the facilities-based wireless industry and intends to confine its efforts to resale. After pulling out of its $1.3 billion deal with Nextel Communications, Inc. and refusing to participate in the Commission's PCS auctions, MCI recently spent $190 million to acquire Nationwide Cellular Service, Inc., a reseller of cellular service.[38] MCI has also negotiated resale deals with Paging Network, Inc. and SkyTel, Corp., announcing that its wireless strategy will be limited to providing "value-added resale."[39] While MCI's approach might prove to be a prudent business decision, it should not be the basis for the imposition of inefficient CMRS-to-CMRS interconnection requirements on facilities-based CMRS providers.

TWT argues that the Commission "significantly underestimates the public benefits of switch-based resale and gives far too much credence to expressions of concern by cellular carriers that reseller switch interconnection is not technically feasible and would impose costs

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[37] See, e.g., SBC, slip op. at 10 (supporting the Commission's finding that the cellular industry enjoys a "degree of rivalry not present in 'wireline' exchange services."); Second Report and Order, 9 FCC Rcd. at 1478; Petition of the Connecticut Department of Public Utility Control to Retain Regulatory Control of the Rates of Wholesale Cellular Service Providers in the State of Connecticut, Report and Order, PR Docket No. 94-106, FCC 95-199 ¶ 14 (rel. May 19, 1995).

[38] See Communications Daily, "MCI Acquires Nationwide Cellular for $190 Million," Vol. 15, No. 99 at 2 (May 23, 1995).

[39] CommunicationsWeek, "MCI: A Catalyst for Convergence," at 12 (June 19, 1995).

on both the Commission and the cellular carriers."[40] TWT argues that switch-based resale is in the public interest because the Commission supposedly has no record support for the costs of switch-based resale, and that the costs of switch-based resale are in any event outweighed by the benefits of making such resale available.[41] TWT further argues that switch-based resale is technically feasible and economically reasonable.[42]

Contrary to TWT's assertion that there is no record evidence of the costs associated with switch-based resale, AT&T demonstrated in its initial comments in this proceeding that switch-based resale would in fact result in considerable costs. For example, switch-based resale would impose lost trunking efficiencies between cellular MSOs and switches, increased call set-up times due to carriers' switches holding calls, and less efficient interconnection with the landline network due to the duplicative functions performed by the resellers' switches.[43] Moreover, the resellers' switch proposals would degrade the quality of service by forcing cellular calls to be routed through additional transmission links.[44]

TWT also seriously misstates the technical ramifications of its reseller switch interconnection proposal. It suggests that a reseller switch could be connected to cellular

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[40] TWT Comments at 2-3.

[41] Id. at 4.

[42] Id. at 6, 8-9.

[43] AT&T at 30.

[44] Id.; see also Declaration of Roderick Nelson attached to AT&T Comments as Exhibit 3 at 5 (implementation of the resellers' switch proposals would require significant costs in research and development to design technical specifications in order to interconnect with the reseller switch in a manner that would enable all features and functions of the cellular carrier's system to be extended to the reseller) ("Nelson Declaration").

networks in the same way that cellular switches and attendant databases are linked today to support automatic roaming.[45/] TWT then claims that such an interconnection arrangement would allow the switch-based reseller to offer a host of new services and would simultaneously relieve the cellular carrier of significant call processing duties.[46/] TWT's claims are simply wrong. The interconnection arrangements between cellular carriers that have evolved to support automatic roaming do not support the type of service flexibility that TWT envisions, nor do they unburden the cellular system that actually serves the end-user (i.e., a roamer or reseller customer) of standard call processing functions. The cellular industry's signalling protocols for automatic roaming merely enable carriers to verify that roamers are subscribers in good standing and are entitled to specific service features. The cellular switch that actually serves the roaming subscriber (or reseller customer) bears all of the call processing responsibilities associated with a local subscriber's calls, and the roaming subscriber's "home" switch (or reseller's switch) is either uninvolved in handling the roamer's calls or merely forwards land-to-mobile calls to the system serving the roamer.

Conceivably, other interconnection scenarios can be developed that would enable a reseller's switch to assume a greater role in managing calls to or from the reseller's customers. However, considerable effort would be required to implement these new forms of interconnection. For example, reseller switches would need to be specially provisioned to

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[45/] TWT at 5.

[46/] Id. at 8-9 (TWT believes that resellers will be able to assume many of the switching and administrative functions from the cellular carriers and provide many vertical features and services, including limited calling areas, incoming call screening, distinctive call signaling, priority call waiting, cellular extension, cellular PBX, cellular Centrex, etc.).

undertake the database inquiries necessary to handle mobile-to-land calls by reseller end users. Similarly, existing IS-41 signalling protocols would have to be revised to enable call origination information to be passed to reseller switches so that resellers could properly rate calls, and special signalling arrangements would be required to support the transmission of certain reseller intercept messages to the reseller customers.[47/] In short, interconnection with resellers' switches would not be the simple "plug and play" arrangement suggested by TWT. Cellular carriers would have to undertake significant development work to implement switch-based resale, and there is no guarantee that cellular carriers would themselves enjoy any efficiencies from interconnection with reseller switches.

Apart from the resellers' factual mischaracterization of the costs and technical feasibility of switch-based resale, the resellers also provide equally unavailing legal arguments why they believe switch-based resale should be mandated. NWRA argues that the Commission does not have the legal authority not to require CMRS providers to permit resellers to interconnect their own switches to the CMRS provider's network facilities.[48/] The NWRA recycles arguments from previous submissions to the Commission to suggest that Sections 332(c)(1)(B) and 201 of the Act require unbundling of CMRS networks and interconnection with resellers.

NWRA misreads the Act. Section 201 of the Act permits the Commission to require interconnection when it is "necessary or desirable in the public interest." See 47 U.S.C. § 201. Nothing in Section 201 suggests that the Commission is under a statutory requirement

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[47/] Nelson Declaration at 2.

[48/] NWRA at 2.

to mandate interconnection at all, let alone switch-based resale. In addition, Section 332(c)(1)(B) requires CMRS providers to interconnect only "upon reasonable request." See 47 U.S.C. § 332(c)(1)(B). Section 332(c)(1)(B) goes on to clarify that nothing in Section 332(c) "shall be construed as a limitation or expansion of the Commission's authority to order interconnection pursuant to the Act." Id. Given the technical and operational difficulties with switch-based resale, the resellers' request for switch-based interconnection cannot be considered reasonable.

Like NWRA, TRA misapplies Section 332. TRA argues that CMRS providers should be subject to the same interconnection obligations as the LECs in the interest of "regulatory parity."[49/] In order to accomplish what TRA states are Congress' objectives as set forth in the legislative history of Section 332 of the Act,[50/] TRA requests the Commission to require CMRS providers -- "at least cellular carriers" -- to provide interconnection on rates, terms, and conditions that are just, reasonable, and to require them to file interconnection agreements.[51/]

[49/] TRA Comments at 33-35. TRA also attempts to turn a comment made by McCaw in 1991 against CMRS providers. McCaw stated in a pleading in 1991 that interconnection will not occur through direct negotiation. Id. at 23-24. McCaw made these comments in the context of interconnection with LECs, which, because they are monopoly bottlenecks, might deny interconnection if not compelled to provide it. See Reply Comments of McCaw Cellular Communications, Inc., CC Docket No. 91-41 at 17 (Sept. 20, 1991). By contrast, CMRS providers are not bottlenecks and do not have the same control over essential facilities. SBC, slip op. at 10. CMRS providers will provide interconnection through negotiation when it is efficient to do so.

[50/] TRA at 33 n.68, citing H.R. Rep. No. 103-111, 103d Cong., 1st Sess., at 259-260 ("House Report").

[51/] Id. at 35 (emphasis added).

TRA misinterprets the legislative history of Section 332. While it is true that Congress expressed a desire to promote regulatory parity, it made clear that the Section 332 amendments were designed to ensure that "equivalent mobile services are regulated in the same manner" and that "the legislation establishes uniform rules to govern the offering of all commercial mobile services."[52] While it is certain that Congress intended Section 332(c) to secure the consistent regulatory treatment of like wireless services, it is equally evident that the scope of Section 332(c) does not include wireline services.[53]

As recently confirmed by the D.C. Circuit, CMRS providers do not control a bottleneck for essential services like the LECs.[54] Regulatory safeguards are therefore unnecessary to protect against discriminatory behavior by CMRS providers. For example, the filing of interconnection agreements is unnecessary because Commission oversight through the Section 208 complaint process is sufficient to ensure that negotiations result in interconnection arrangements that are fair and nondiscriminatory.[55] The needless filing of confidential information would compromise the public benefits obtained from allowing the marketplace to operate without unnecessary regulatory intervention.

CONCLUSION

The record in this docket is replete with evidence that the CMRS marketplace is competitive. The D.C. Circuit and the Commission have already found that the CMRS

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[52] House Report at 259.

[53] Moreover, by suggesting that the Commission should regulate cellular carriers differently from all other CMRS providers, TRA is not even consistent.

[54] SBC, slip op. at 10.

[55] See 47 U.S.C. § 208.

marketplace is not a bottleneck and that cellular service in particular is rivalrous. In order to give full reign to the competitive forces currently at work in the CMRS marketplace, the Commission must provide CMRS providers with the flexibility to develop services and enter relationships that are inspired by consumer demand. Because no commenter has substantiated the need to constrain market choices, the Commission should eschew formal standards for interconnection and roaming and require resale except where it is technically infeasible or where it would undermine competition.

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July 14, 1995

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